

## **Title 10 – Public Health and Welfare**

### **Chapter 4 – Dangerous Dogs**

**Sec.**

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#### **Legislative History**

**Enacted:**

Public Health and Welfare, Ord. 169 (6/30/03), BIA (7/3/03).

**Repealed or Superseded:**

Defining “Swinomish Village” and Prohibiting Dangerous Dogs, Ord. 144 (11/8/00), BIA (11/27/00) (amending Ord. 90, as amended).

Health and Sanitation Code, Ord. 90 (2/6/92), BIA (2/18/92) (repealing and superseding Res. 81-2-801, Res. 81-1-794, and Res. 76-7-399).

Interim Health and Sanitation Code, Res. 81-2-801 (2/26/81) (adopting the Interim Health and Sanitation Code).

Requiring the Registration and Taxation of Dogs, Ord. 2 (no date), BIA (8/28/36).

**Rescinded:**

Adopting the Health and Sanitation Code, Res. 81-1-794 (1/5/81), BIA (disapproved) (Senate subsequently repealed by Ord. 90).

[Ed. Note. The Interim Health and Sanitation Code enacted by Res. 81-2-801 reenacted Sections I, VII, and XIII of the Health and Sanitation Code enacted by Res. 81-1-794, which the BIA disapproved. Res. 76-7-399, repealed by Ord. 90, is cited in Title 12 – Building and Construction.]

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**10-04.010 Findings.**

- (A) The Senate finds that there are certain breeds of dogs within the exterior boundaries of the Swinomish Reservation that have undesirable and dangerous

traits and temperaments, and are inherently dangerous. Given the housing density and number of children residing within Swinomish Village, such dogs constitute a serious threat to the public health and safety of the Village and are a public nuisance.

- (B) Such dogs are incapable of being safely restrained or confined and thus pose a constant threat to the health and safety of all persons who may come into contact with them, either purposefully or inadvertently. It is the duty and obligation of the Senate to provide for the health and safety of all tribal members, the Reservation community, and visitors to the Reservation.
- (C) The Senate finds that an outright ban and prohibition on such dogs within the Village is necessary and appropriate under the circumstances herein recited. The Senate recognizes that owners of such dogs should be given notice and an opportunity to be heard in any enforcement action taken pursuant to this Chapter, and it is the intent and purpose of this Chapter to provide such notice and opportunity as required under applicable tribal and federal law.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.020 Definitions.**

For the purposes of this Chapter, the following definitions shall apply. Except as provided for in this Section, and unless the context requires a different interpretation, the definitions in Section 10-01.030 of this Title shall also apply to this Chapter.

- (A) **“Person”** means and includes an individual as well as a corporation, partnership, association or any other entity, group or organization subject to the jurisdiction of the Swinomish Indian Tribal Community.
- (B) **“Dangerous dog”** means:
  - (1) The breed commonly known as a pit bull or pit bull terrier;
  - (2) The bull terrier breed of dog;
  - (3) The Staffordshire bull terrier breed of dog;
  - (4) The American pit bull terrier breed of dog;
  - (5) The American Staffordshire terrier breed of dog;
  - (6) The breed commonly known as a Rottweiler or derivative or similar breed of large, powerful dogs of German origin having a short, coarse black coat with tan to brown markings that are commonly used as guard dogs;

- (7) The breed commonly known as a Doberman, Doberman pinscher, Dobermann, Dobie, or Dobe;
  - (8) Dogs of mixed breed of other breeds not listed above, which mixed breed or breed is commonly known as a dangerous breed of dog; and
  - (9) Any dog that has the appearance and characteristics of being predominantly of any of the breeds, or a combination of any of the breeds listed above, or any other breed commonly known as pit bull, a dangerous breed of dog, or pit bull terrier.
- (C) **“Own”** means to keep, harbor, own or have in one’s care, control, or custody, any dangerous breed of dog prohibited by this Chapter, or for a person to knowingly permit a dangerous breed of dog to remain on or about property or premises owned or occupied by such person.
- (D) **“Owner”** shall mean a person who keeps, harbors, owns or who has in such person’s care, control or custody any dangerous breed of dog prohibited by this Chapter, or a person who knowingly permits a dangerous breed of dog to remain on or about property or premises owned or occupied by such person.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.030 Applicability.**

This Chapter is intended to supplement existing tribal law in the area of animal control. Therefore, any other provision of tribal law, including Chapter 10-05 of the Swinomish Public Health and Welfare Title, not contrary to or in conflict with the provisions of this Chapter, shall remain in full force and effect. In the event of conflict, the provisions of this Chapter shall control.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.040 Dangerous Dogs Prohibited.**

All dangerous dogs are prohibited within and banned from the Village area of the Swinomish Indian Reservation. It is unlawful for any person to keep, harbor, own, care for, control or have custody of any dangerous dog within the village or to bring into the Village any dangerous dog, or to knowingly permit any dangerous dog to remain on or about any premises owned or occupied by such person within the Village.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.050 Seizure and Impoundment.**

- (A) **Notice.** Upon the effective date of this Chapter, any dangerous dog found within the Village area shall be immediately seized and impounded by Tribal law enforcement officers or other persons appointed for that purpose. Within twenty-four (24) hours after impoundment, the person impounding such dog shall register the impoundment information with the Clerk of the Tribal Court and shall attempt to serve notice of the impoundment on the owner in the same manner provided for service of a civil summons and complaint pursuant to the Tribe's Rules of Civil Procedure: provided, that if the owner of the animal is unknown, no notice shall be required.
- (B) **Contents of Notice.** The notice shall plainly state that the seized dog will be destroyed unless the owner files a civil action in the Tribal Court challenging the seizure within five (5) days after the notice of seizure is served on the owner. Such civil action shall name the Tribe as defendant and shall be given priority on the Tribal Court's calendar. If no action is filed challenging the seizure within the five-day period, the dog shall be destroyed and disposed of in a humane and sanitary manner.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.060 Destruction of Dangerous Dogs.**

Any dangerous dog whose owner is unknown shall be destroyed and disposed of in a humane and sanitary manner after three (3) days following seizure. Any dangerous dog whose owner is known shall be destroyed and disposed of in a humane and sanitary manner no sooner than five (5) days after service of the notice provided for in Section 10-05.050, unless the owner has filed a civil action challenging the seizure, as provided for in Section 10-04.070.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.070 Hearing.**

- (A) The Tribe's Rules of Civil Procedure, to the extent consistent with this Chapter, shall apply with regard to any action filed by an owner whose dog is seized and impounded pursuant to this Chapter.
- (B) A hearing shall be held before the Tribal Court on the first available hearing date. At such hearing, if it appears to the Court by a preponderance of the evidence that there has been a violation of this Chapter, the Court shall order either that the animal be immediately and permanently removed from the Village area of the Reservation or order that the animal be destroyed and disposed of in a humane and sanitary manner.

- (C) If the owner fails to appear at the hearing, the Tribal Court shall order the dangerous dog destroyed and disposed of in the same manner. Violation of any order of the Court under this Section shall constitute a failure to obey a lawful order of the Court and contempt of court.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.080 Schedule of Charges.**

Notwithstanding any other provision of tribal law, and in addition to all other fines, penalties, and remedies, an owner of a dangerous dog seized and impounded pursuant to this Chapter shall be liable for, and the Court shall assess, the following charges:

- (A) A seizure and impoundment charge of seventy-five dollars (\$75.00);
- (B) A boarding and maintenance charge of twenty-five dollars (\$25.00) per day; and
- (C) A destruction and disposal charge of seventy-five dollars (\$75.00).

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.090 Cash Bond for Maintenance of Animal.**

In the event the Court orders a delay or stay of destruction of any dangerous dog seized and impounded pursuant to this Chapter, the Court shall set a bond to be posted by the owner in an amount equal to the daily boarding and maintenance charge times the number of days that the animal has been and will be in impoundment, plus the seizure and impoundment charge.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

#### **10-04.100 Fines and Penalties.**

- (A) Notwithstanding any other provision of tribal law, the following fines and penalties shall apply to any person or owner who is determined, pursuant to this chapter, to have violated this Chapter: a civil fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) per animal, per violation, plus the cost of seizure and impoundment, boarding and maintenance, and destruction and disposal, where applicable.
- (B) Such civil fine shall be levied pursuant to a civil proceeding in Tribal Court brought pursuant to the Rules of Civil Procedure and shall be enforceable as a civil judgment under tribal law.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

**10-04.110 Repealer.**

Ordinance 144, Sections 4 – 6, is hereby repealed and superseded.

[History] Ord. 169 (6/30/03).

**10-04.120 Severability.**

If any part or provision of this Chapter is determined to be unlawful, void, or unenforceable for any reason by a court of competent jurisdiction, all remaining parts and provisions of this Chapter shall remain in full force and effect.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).

**10-04.130 Effective Date.**

This Chapter shall become effective immediately.

[History] Ord. 169 (6/30/03); Ord. 144 (11/8/00).